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NOTES.

FISCAL RECIPROCITY.

THE recent Austro-Prussian convention on the subject of double taxation is an auspicious indication of international comity and concert in a field of action that has been too long neglected. It deserves to be signalized as affording an example worthy of imitation in its essential principles, if not in all of its details, by other states. The text of the convention, the legislation necessary to make it operative, and the ministerial report explaining its provisions, are all to be found in Schanz's *Finanz-Archiv* of recent issue (Vol. XVIII, p. 285).

There is much that is unsatisfactory in existing conditions of taxation, but it is doubtful whether there is any one thing that has given rise to such widespread irritation and annoyance as the particular evil known under the name of double taxation. The fiscal practice of most nations is, as regards this important detail of procedure, in defiance of every reasonable sentiment of fair dealing. Laws adapted to mediæval conditions continue to be administered to the present day, in disregard of the complicated changes that have been wrought in the texture of social and industrial relations by the ever-increasing mobility of modern life and capital. To tax its own citizens, wherever they might happen to be, and to tax all others, whenever they could be reached through their person, their property, or their business, is not an extravagant statement of the principle, to which the drift of economic changes, rather perhaps, than the spirit of governmental exploitation, has brought most modern states. But the evils complained of are none the less real or serious on this account. The negligence of government has always been one of the most potent causes of mischievous demoralization in the workings of the tax system.

The question, Where shall a man be taxed? is one that admits of comparatively easy solution, if it once be admitted that a man should be taxed but once on the same wealth or other evidences of tax-paying capacity, even though these bring him into contact with more than one tax jurisdiction. So far as the taxpayer is concerned, it is almost immaterial on what basis government proceeds—whether that of

citizenship, domicile, residence, *situs* of property, location of business, or a suitable combination of these—providing all states agree to act on the same basis. It is because states act on different principles, or, worse yet, act on no better one than the barbaric principle of grab, that the taxpayer is injured in purse and outraged in feeling, by being twice or thrice taxed. The difficulties of the problem are, therefore, mainly practical or political, of getting independent states to act on the principle of forbearance and relinquish their claims for revenue, wherever these are not founded in equity. As it is, the eager search for revenue has led many a state to push its claims where these had no foundation except in force.

It is this *régime* of force which the Austro-Prussian convention undertakes to terminate, and the *modus vivendi* it establishes is suggestive of the proper method of dealing with the problem. This method may be described as that of apportioning an individual's tax liability among competing jurisdictions, according to the geographical distribution of his personality or interest. It is a combination of the principles of political allegiance and economic interest. It follows in its main outlines the imperial German act of May 13, 1870, for doing away with double taxation among the several states of the empire. It attempts an equitable adjustment of the revenue claims of each state in cases where an individual, through his person or his property, comes into relations with both states.

Both Austria and Prussia levy general personal income taxes, and, in addition, separate special taxes on lands, houses, business, etc. As matters stood before the adoption of the recent treaty, the same person might be obliged to pay the income tax in both states; or, the income tax in one, and the special direct taxes on land, business, etc., in the other. Citizenship, domicile, or residence, rendered a person liable to the income tax in either state, irrespective of the action of the other. Cases were not of infrequent occurrence in which a person held citizenship in both states, or had residences in both, or a permanent residence in the one and a temporary one in the other; or, while a citizen of one state, lived in the other. In all these cases he was subject to the income tax in both Austria and Prussia.

Under the new arrangement the situation is much improved for all these classes. Domicile is made the chief test in the case of personal taxes, and location, in the case of property and business taxes. To be more explicit in giving the provisions of the treaty, Article I provides

that, subject to the exceptions named below, Prussian and Austrian subjects shall be liable to the payment of the direct state taxes only in the state where they have their domicile (*Wohnsitz*), in the absence of such, only in the state in which they reside (*sich aufhalten*.)

Persons having a place of residence in both states shall be subject to the payment of the direct state taxes only in the home state.

The chief exception to this rule is contained in Article II, which provides that land, houses, and business, as well as the income proceeding from these sources, shall be liable to direct taxation only in the state in which the lands and houses are located, or an establishment is maintained for the prosecution of the business. If establishments belonging to the same business are found in both states, the liability of the business to taxation in each jurisdiction shall be limited to the proportionate amount of business done by the local establishments.

So far so good. These rules—both the leading principle and the exceptions established to it—seem well designed to accomplish the object in view—the suppression of double taxation. They have been well tested in the experience of the German empire, and have the endorsement of a considerable body of competent scientific opinion. But the treaty, unfortunately, stops short in the application of its rules, when it reaches certain cases, where the differences in the tax systems of the two states apparently made it difficult to reach a common basis of action. Austria will continue, as heretofore, to collect special taxes on the income from mortgage investments and the public funds, by way of stoppage at the source. At the same time the treaty stipulates that the taxing power of Prussia with respect to income thus arising shall in nowise be abridged. Here, therefore, double taxation may take place. A Prussian taxable holding an Austrian mortgage or securities of the Austrian government, will be subject to the income tax in Prussia on the income from these investments, and, in addition to the special objective taxes levied by the government of Austria. The Prussian ministerial report admits that this is a hardship. But it apparently was impossible for the two governments to reach a more satisfactory agreement on this point at the present time, and it is left over for future adjustment.

Indeed, the present treaty is regarded in Prussia as being the first step toward a more comprehensive scheme of dealing with the questions of international taxation. The legislation enacted by the Landtag to give effect to the provisions of the convention with Austria, plainly

looks forward to the conclusion of treaties of similar scope with other European powers. The second section of the act of April 18, 1900, empowers the minister of finance to conclude conventions and issue regulations governing the liability to direct taxation of persons and property subject to the tax jurisdiction of more than one state, providing such arrangements are based on the principle of reciprocity.

All this is admirable and promising. It foreshadows the opening of a new field for the exercise of the diplomacy of reciprocity. We hear much these days of world-industry, world-commerce, world-markets. The business economy of the twentieth century is clearly destined to become increasingly international with each decade. Just as clearly do these changes in the economic organization of the modern world demand fiscal reciprocity as their correlate. Few conclusions are more strongly enforced by the history of industry and taxation than that good fiscal arrangements help, as bad ones certainly hinder, the natural growth of trade and industry. Much has been accomplished during the past century in the way of simplification and systematization of the machinery of taxation, but a vast deal still remains. And nowhere, it is to be remarked, are the conditions of the problem clearer, nowhere do they point more surely to the appropriate and effective solution, than in the region of double taxation by competing authorities. Prussia and Austria have showed the way. Will other countries have the wisdom to follow?

A. C. MILLER.

THE GERMAN TARIFF CONTROVERSY.¹

THESE two controversial publications are selected, out of a deluge of polemical writings, as typical and authoritative summaries of the arguments and appeals to interest on both sides of the question which divides the German people. Whatever the Reichstag decides to do the controversy is sure to proceed, for its causes lie deep in the conflicting interests and beliefs of parties. Schäffle and Wagner represent with supreme ability views which are wide apart. Professor

¹ *Agra- und Industriestaat. Eine Auseinandersetzung mit den Nationalsozialen und mit Professor L. Brentano über die Kehrseite des Industriestaates, und zur Rechtfertigung agrarischen Zollschatzes.* By ADOLPH WAGNER. (Jena: Gustav Fischer, 1901.)

Ein Votum gegen den neuesten Zolltarifentwurf. By D. A. SCHÄFFLE. (Tübingen: H. Laupp, 1901.)